

By: Lucio, et al.

S.B. No. 2140

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision by the Texas Water Development Board of
3 financial assistance for the development of certain projects in
4 economically distressed areas.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Subchapter K, Chapter 17, Water
7 Code, is amended to read as follows:

8 SUBCHAPTER K. ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR
9 WATER SUPPLY, ~~AND~~ SEWER SERVICE, AND RESIDENTIAL DRAINAGE
10 PROJECTS

11 SECTION 2. Sections 17.921(1) and (2), Water Code, are
12 amended to read as follows:

13 (1) "Economically distressed area" means an area in
14 which:

15 (A) water supply, ~~or~~ sewer, or residential
16 drainage services are inadequate to meet minimal needs of
17 residential users as defined by board rules;

18 (B) financial resources are inadequate to
19 provide water supply, ~~or~~ sewer, or residential drainage services
20 that will satisfy those needs; and

21 (C) an established residential subdivision was
22 located on June 1, 2005, as determined by the board.

23 (2) "Financial assistance" means the funds provided by
24 the board to political subdivisions for water supply, ~~and~~ sewer,

1 and residential drainage services under this subchapter.

2 SECTION 3. Section 17.922, Water Code, is amended to read as
3 follows:

4 Sec. 17.922. FINANCIAL ASSISTANCE. (a) The economically
5 distressed areas account may be used by the board to provide
6 financial assistance to political subdivisions for the
7 construction, acquisition, or improvement of water supply, ~~and~~
8 sewer, and residential drainage services, including providing
9 funds from the account for the state's participation in federal
10 programs that provide assistance to political subdivisions.

11 (b) To the extent practicable, the board shall use the funds
12 in the economically distressed areas account in conjunction with
13 the other financial assistance available through the board to
14 encourage the use of cost-effective water supply, ~~and~~ wastewater,
15 and residential drainage systems, including regional systems, to
16 maximize the long-term economic development of counties eligible
17 for financial assistance under the economically distressed areas
18 program. Any savings derived from the construction of a regional
19 system that includes or serves an economically distressed area
20 project shall be factored into the board's determination of
21 financial assistance for the economically distressed area in a
22 manner that assures the economically distressed area receives
23 appropriate benefits from the savings. In no event shall financial
24 assistance provided from the economically distressed areas account
25 be used to provide water supply, ~~or~~ wastewater, or residential
26 drainage service to any area that is not an economically distressed
27 area.

1 SECTION 4. Subchapter K, Chapter 17, Water Code, is amended
2 by adding Section 17.9226 to read as follows:

3 Sec. 17.9226. USE OF CERTAIN GENERAL OBLIGATION BONDS. The
4 board shall:

5 (1) work to maximize the effectiveness of the
6 additional general obligation bonds authorized by Section
7 49-d-10(a-1), Article III, Texas Constitution, by using the
8 additional bonds in conjunction with other sources of financial
9 assistance, including nonpublic funds, to provide financial
10 assistance to political subdivisions for the construction,
11 acquisition, or improvement of water supply, sewer, and residential
12 drainage services; and

13 (2) use the additional general obligation bonds
14 authorized by Section 49-d-10(a-1), Article III, Texas
15 Constitution, to promote and support public-private partnerships
16 that the board determines:

17 (A) are financially viable;

18 (B) will diversify the methods of financing
19 available for water supply, sewer, and residential drainage
20 services; and

21 (C) will reduce reliance on the issuance of bonds
22 supported with general revenue.

23 SECTION 5. Sections 17.927(a) and (b), Water Code, are
24 amended to read as follows:

25 (a) A political subdivision may apply to the board for
26 financial assistance under this subchapter by submitting an
27 application together with a plan for providing water supply, ~~and~~

1 sewer, or residential drainage services to an economically
2 distressed area for which the financial assistance is to be used.

3 (b) The application and plan must include:

4 (1) the name of the political subdivision and its
5 principal officers;

6 (2) a citation of the law under which the political
7 subdivision was created and operates;

8 (3) a project plan, prepared and certified by an
9 engineer registered to practice in this state, that must:

10 (A) describe the proposed planning, design, and
11 construction activities necessary to provide water supply, ~~and~~
12 sewer, or residential drainage services that meet minimum state
13 standards; and

14 (B) identify the households to which the water
15 supply, ~~and~~ sewer, or residential drainage services will be
16 provided;

17 (4) a budget that estimates the total cost of
18 providing water supply, ~~and~~ sewer, or residential drainage
19 services to the economically distressed area and a proposed
20 schedule and method for repayment of financial assistance
21 consistent with board rules and guidelines;

22 (5) a description of the existing water supply, ~~and~~
23 sewer, or residential drainage facilities located in the area to be
24 served by the proposed project, including a statement prepared and
25 certified by an engineer registered to practice in this state that
26 the facilities do not meet minimum state standards;

27 (6) documentation that the appropriate political

1 subdivision has adopted the model rules developed under Section
2 [16.343](#);

3 (7) information identifying the median household
4 income for the area to be served by the proposed project; and

5 (8) the total amount of assistance requested from the
6 economically distressed areas account.

7 SECTION 6. Subchapter K, Chapter [17](#), Water Code, is amended
8 by adding Section 17.9275 to read as follows:

9 Sec. 17.9275. PRIORITIZATION OF PROJECTS BY BOARD.

10 (a) The board shall prioritize projects for the purpose of
11 providing financial assistance under this subchapter.

12 (b) The board shall establish a system for prioritizing
13 projects for which financial assistance is sought from the board.
14 The system must include a standard for the board to apply in
15 determining whether a project qualifies for financial assistance at
16 the time the application for financial assistance is filed with the
17 board.

18 (c) The board shall give the highest consideration to
19 projects that will have a substantial effect, including projects
20 that will serve an area for which the Department of State Health
21 Services has issued a finding that a nuisance dangerous to the
22 public health and safety exists resulting from water supply and
23 sanitation problems.

24 (d) In addition to the criteria provided by Subsection (c),
25 the board must also consider at least the following criteria in
26 prioritizing projects:

27 (1) the local contribution to be made to finance the

1 project, including the up-front capital to be provided by the
2 applicant;

3 (2) the financial capacity of the applicant to repay
4 the financial assistance provided;

5 (3) the ability of the board and the applicant to
6 timely leverage state financing with local and federal funding;

7 (4) whether there is an emergency need for the
8 project, taking into consideration whether the applicant is
9 included at the time of the application on the list maintained by
10 the commission of local public water systems that have a water
11 supply that will last less than 180 days without additional
12 rainfall;

13 (5) whether the applicant is ready to proceed with the
14 project at the time of the application, including whether:

15 (A) all preliminary planning and design work
16 associated with the project has been completed; and

17 (B) the applicant is able to begin implementing
18 or constructing the project; and

19 (6) the cost per connection of the project.

20 SECTION 7. Section 17.928(c), Water Code, is amended to
21 read as follows:

22 (c) If an applicant includes a proposal for treatment or
23 residential drainage works, the board may not deliver funds for the
24 treatment or residential drainage works until the applicant has
25 received a permit for construction and operation of the treatment
26 or residential drainage works and approval of the plans and
27 specifications from the commission or other applicable permitting

1 authority or unless such a permit is not required by the commission
2 or other applicable permitting authority.

3 SECTION 8. Section 17.929(a), Water Code, is amended to
4 read as follows:

5 (a) In passing on an application for financial assistance,
6 the board shall consider:

7 (1) the need of the economically distressed area to be
8 served by the water supply, ~~and~~ sewer, or residential drainage
9 services in relation to the need of other political subdivisions
10 requiring financial assistance under this subchapter and the
11 relative costs and benefits of all applications;

12 (2) the availability to the area to be served by the
13 project of revenue or financial assistance from alternative sources
14 for the payment of the cost of the proposed project;

15 (3) the financing of the proposed water supply, ~~and~~
16 sewer, or residential drainage project, including consideration
17 of:

18 (A) the budget and repayment schedule submitted
19 under Section 17.927(b)(4);

20 (B) other items included in the application
21 relating to financing; and

22 (C) other financial information and data
23 available to the board;

24 (4) whether the county and other appropriate political
25 subdivisions have adopted model rules pursuant to Section 16.343
26 and the manner of enforcement of model rules; and

27 (5) the feasibility of achieving cost savings by

1 providing a regional facility for water supply, ~~[or]~~ wastewater, or
2 residential drainage service and the feasibility of financing the
3 facility by using funds from the economically distressed areas
4 account or any other financial assistance.

5 SECTION 9. Sections 17.933(b) and (d), Water Code, are
6 amended to read as follows:

7 (b) In providing financial assistance to an applicant under
8 this subchapter, the board may not provide to the applicant
9 financial assistance for which repayment is not required in an
10 amount that exceeds 50 percent of the total amount of the financial
11 assistance plus interest on any amount that must be repaid, unless
12 the ~~[Texas]~~ Department of State Health Services issues a finding
13 that a nuisance dangerous to the public health and safety exists
14 resulting from water supply and sanitation problems in the area to
15 be served by the proposed project. The board and the applicant
16 shall provide to the ~~[Texas]~~ Department of State Health Services
17 information necessary to make a determination, and the board and
18 the ~~[Texas]~~ Department of State Health Services may enter into
19 necessary memoranda of understanding to carry out this subsection.

20 (d) In determining the amount and form of financial
21 assistance and the amount and form of repayment, if any, the board
22 shall consider:

23 (1) rates, fees, and charges that the average customer
24 to be served by the project will be able to pay [~~based on a~~
25 ~~comparison of what other families of similar income who are~~
26 ~~similarly situated pay for comparable services];~~

27 (2) sources of funding available to the political

1 subdivision from federal and private funds and from other state
2 funds;

3 (3) any local funds of the political subdivision to be
4 served by the project if the economically distressed area to be
5 served by the board's financial assistance is within the boundary
6 of the political subdivision; and

7 (4) the just, fair, and reasonable charges for water,
8 ~~and~~ wastewater, and residential drainage service as provided in
9 this code.

10 SECTION 10. Section 17.936(d), Water Code, is amended to
11 read as follows:

12 (d) The provider of water or wastewater utility or
13 residential drainage service to an economically distressed area may
14 recover from a developer or owner of an undeveloped lot
15 economically distressed areas program impact fees as provided by
16 rules adopted by the board.

17 SECTION 11. Subchapter K, Chapter 17, Water Code, is
18 amended by adding Section 17.937 to read as follows:

19 Sec. 17.937. REPORTING AND TRANSPARENCY REQUIREMENTS.

20 (a) The board shall annually post on the board's Internet website
21 a report detailing each project for which the board has provided
22 financial assistance under this subchapter.

23 (b) The report must include:

24 (1) a description of each project;

25 (2) the location of each project;

26 (3) the number of residents served by each project;

27 (4) the amount of financial assistance provided or

1 anticipated to be provided for each project; and

2 (5) a statement of whether each project has been
3 completed and, if not, the expected completion date.

4 SECTION 12. Section 17.933(b-1), Water Code, is repealed.

5 SECTION 13. This Act takes effect on the date on which the
6 constitutional amendment proposed by the 85th Legislature, Regular
7 Session, 2017, providing for the issuance of additional general
8 obligation bonds by the Texas Water Development Board to provide
9 financial assistance for the development of certain projects in
10 economically distressed areas takes effect. If that amendment is
11 not approved by the voters, this Act has no effect.